



Attorney General  
STATE CAPITOL  
Phoenix, Arizona 85007

Robert R. Corbin

June 26, 1980

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

Mr. Q. Dale Hatch  
Deputy Maricopa County Attorney  
Suite 400  
101 West Jefferson  
Phoenix, AZ 85003

Re: I80-120 (R80-127)

Dear Mr. Hatch:

Pursuant to A.R.S. § 15-122.B, we decline to review your opinion of May 21, 1980, addressed to the Roosevelt School District concerning payment to an employee for earned unused vacation leave time.

We believe A.R.S. § 15-436.B, shielding the board of trustees from personal liability when relying upon the Attorney General's written opinion, applies equally to board action taken in reliance upon a County Attorney's opinion which we have declined to review pursuant to A.R.S. § 15-122.B.

Sincerely,

*Bob Corbin*

BOB CORBIN  
Attorney General

BC:LPS:lfc

CHARLES E. HYDER  
MARICOPA COUNTY ATTORNEY

101 W. JEFFERSON STREET, SUITE 400  
PHOENIX, ARIZONA 85003



RL A. GOLSTON CHIEF DEPUTY

LARRY CRONIN ADMINISTRATIVE DEPUTY

*Rec'd 6-5-80 pc  
POLLARD*

May 21, 1980

EDUCATION OPINION

ISSUE NO LATER THAN

8-5-80

R80- 127

Mr. George Sandoval  
Assistant Superintendent for  
Personnel Services  
Roosevelt School District No. 66  
6000 South 7th St.  
Phoenix, Arizona 85040

School Opinion No. 80-8

Dear Mr. Sandoval:

This opinion is in response to your request for an opinion  
on the following questions:

- 1) May an employee accumulate earned unused vacation leave time during the years of his/her employment with the district?
- 2) May the Board compensate an employee for accumulated earned and unused vacation leave time at the termination of the employment of the person?
- 3) Would the Board make payment to the employee for any earned and unused vacation leave time by either a supplemental contract or a re-write of the existing contract to compensate the employee for the leave time at the close of the current school year?

ANSWERS:

- 1) Yes as limited by discussion.
- 2) Yes.
- 3) No.

DISCUSSION:

The Superintendent of Roosevelt School District No. 66 is leaving the employment of the District at the end of June, 1980. During his period of employment with the district, he has accumulated 62 days of vacation time which he has not been able to use. The District wants to know if it can pay him for the leave he has not used.

Mr. George Sandoval  
May 21, 1980  
School Opinion No. 80-8  
Page 2.

R80- 127

Earned leave is a fringe benefit granted to an employee either by policy or by contract. Because it is a part of the employment contract, the employee is legally entitled to use the leave. If the employee is unable to use the leave time for various reasons, he is entitled to compensation for the unused leave time since he performed services for the District on days that he could have been absent. Consequently, the payment for accumulated unused leave time is a contractual right rather than a gift of school money. 1/

The accumulation of unused vacation time over a period of years is a subject which can be regulated by district policy. If the district wants employees to use vacation time rather than accumulate it, such use can be encouraged by a policy which requires the loss of any accumulated leave over a certain number of days. This is legal if the employee knows or should have known of the policy since the policy becomes a part of the employee's contract.

There is no need for the Board to rewrite or supplement the employee's contract to enable it to pay the employee for accumulated unused leave.

A copy of this opinion is being sent to the Attorney General for his concurrence, revisions or non-review.

Very truly yours,

CHARLES F. HYDER  
MARICOPA COUNTY ATTORNEY

By *Q. Dale Hatch*  
Q. Dale Hatch  
Deputy County Attorney

QDH/deh

cc: Attorney General

1/ Attorney General Opinion No. 77-16.

APPROVED FOR RELEASE

*Albert F. Firestein*  
Albert F. Firestein